

Memorandum on Regulatory Reform March 4, 1995

Memorandum for Heads of Departments and Agencies

Subject: Regulatory Reinvention Initiative

Last week, I announced this Administration's plans for further reform of the Federal regulatory system. This is a central part of reinventing our Government. All Americans want the benefits of effective regulation: clean water, safer workplaces, wholesome food, sound financial institutions. But, too often the rules are drafted with such detailed lists of dos and don'ts that the objectives they seek to achieve are undermined. Clear goals and cooperation would work better. Too often, businesses, especially small ones, face a profusion of overlapping and sometimes conflicting rules.

We have already made real progress in reforming regulation. This memorandum will build on the regulatory philosophy set forth in Executive Order No. 12866 of September 30, 1993, "Regulatory Planning and Review," which is premised on the recognition of the legitimate role of government to govern, but to do so in a focused, tailored, and sensible way.

In the year and a half since that order was signed, we have opened the rulemaking process to the public, we have increased cooperation and coordination among the Federal agencies, and we have seen good processes produce good decisions.

However, not all agencies have taken the steps necessary to implement regulatory reform. To reaffirm and implement the principles of Executive Order No. 12866, regulatory reform must be a top priority.

Accordingly, I direct you to focus on the following four steps, which are an integral part of our ongoing Regulatory Reform Initiative.

First: Cut Obsolete Regulations

I direct you to conduct a page-by-page review of all of your agency regulations now in force and eliminate or revise those that are outdated or otherwise in need of reform. Your review should include careful consideration of at least the following issues:

- Is this regulation obsolete?
- Could its intended goal be achieved in more efficient, less intrusive ways?

- Are there better private sector alternatives, such as market mechanisms, that can better achieve the public good envisioned by the regulation?
- Could private business, setting its own standards and being subject to public accountability, do the job as well?
- Could the States or local governments do the job, making Federal regulation unnecessary?

This review should build on the work already being done by your agencies under section 5 of Executive Order No. 12866.

Your regulatory review task force should be headed by one of your appointees who should be given your full support and should, to the extent practicable, be freed of other duties.

I further direct you to deliver to me by June 1 a list of regulations that you plan to eliminate or modify with a copy of the report sent to Sally Katzen, Administrator of the Office of Information and Regulatory Affairs (OIRA). The list should distinguish between the regulations that can be modified or eliminated administratively and those that require legislative authority for modification or elimination.

Second: Reward Results, Not Red Tape

I direct you to change the way you measure the performance of both your agency and your frontline regulators so as to focus on results, not process and punishment. For example, Occupational Safety and Health Administration (OSHA) inspectors should not be evaluated by the number of citations they write, nor should officials of the Consumer Product Safety Commission be judged by the number of boxes of consumer goods that are detained in shipment. This change in measurements should involve a two-step process.

First, you should identify appropriate performance measures and prepare a draft in clear, understandable terms, of the results you are seeking to achieve through your regulatory program. The draft should be circulated to frontline regulators for review and comment. This is the same work needed to meet the requirements of the Government Performance and Results Act of 1993.

Second, you should evaluate and reward employees based on the realization of those measures/goals.

By no later than June 1, I direct you to (a) eliminate all internal personnel performance measures based on process (number of visits made, etc.) and punishment (number of violations found, amount of fines levied, etc.), and (b) provide to the National Performance Review (NPR) staff a catalogue of the changes that you are making in existing internal performance evaluations to reward employees. You should also provide material describing shifts in resource allocation from enforcement to compliance.

Third: Get Out of Washington and Create Grassroots Partnerships

I direct you to promptly convene groups consisting of frontline regulators and the people affected by their regulations. These conversations should take place around the country—at our cleanup sites, our factories, our ports.

I further direct you to submit a schedule of your planned meetings to the NPR staff by March 30 and work with NPR in following through on those meetings.

Fourth: Negotiate, Don't Dictate

It is time to move from a process where lawyers and bureaucrats write volumes of regulations to one where people work in partnership to issue sensible regulations that impose the least burden without sacrificing rational and necessary protections. In September 1993, I asked each of you to identify at least one rule that could be conducted through negotiated rulemaking (or to explain why such could not be done) in order to promote consensual rulemaking as opposed to the more traditional rulemaking that has dominated the regulatory arena.

I now direct you to expand substantially your efforts to promote consensual rulemaking. To this end, you should submit to OIRA, no later than March 30, a list of upcoming rulemakings that can be converted into negotiated rulemakings. I have directed Sally Katzen to review your lists with a view toward making clear

to the regulated community that we want to work together productively on even the most difficult subjects.

To facilitate our ability to learn from those affected by regulation, I will amend Executive Order No. 12838 (which requires agencies to reduce the number of advisory committees that they use and to limit the future use of such committees) to allow for advisory committees established for negotiated rulemakings.

I also intend to take additional steps to increase our ability to learn from those affected by regulation. While many laws and rules that limit the ability to regulators to talk with those being regulated were imposed to curb abuse, they now often serve as a barrier to meaningful communication between the regulators and the regulated. To address this problem, and to promote consensus building and a less adversarial environment, I direct you to review all of your administrative *ex parte* rules and eliminate any that restrict communication prior to the publication of a proposed rule—other than rules requiring the simple disclosure of the time, place, purpose, and participants of meetings (as in Executive Order No. 12866). We will also begin drafting legislation that will carve out exemptions to the Federal Advisory Committee Act to promote a better understanding of the issues, such as exemptions for meetings with State/local/tribal governments and with scientific or technical advisors.

I also ask you to think about other ways to promote better communication, consensus building, and a less adversarial environment. Please send your ideas to the Office of the Vice President.

As I said on Tuesday, February 21, 1995, you are to make regulatory reform a top priority. Good government demands it and your full cooperation is crucial.

WILLIAM J. CLINTON

NOTE: This memorandum was released by the Office of the Press Secretary on March 6.

Remarks to the Veterans of Foreign Wars Conference March 6, 1995

Thank you very much, Commander Kent, for that introduction. Ladies and gentlemen, I can tell you from firsthand experience that the VFW is very lucky to have a leader as forceful and as thoughtful as Gunner Kent. I also want to acknowledge the presence here of Secretary Brown and Deputy Secretary Goyer; General Sullivan; your adjutant general, Larry Rivers; Charles Durning, who rode over here with me and regaled me with experiences. How lucky we are to have him going out and setting an example, visiting our hospitalized veterans all across the United States. And I appreciate the reception you gave him. I want to recognize the president of your ladies auxiliary, Helen Harsh. I also want to recognize these young people over here from the Voice of Democracy contest, the winners there. I'm glad to see them. I thank you for your support of the young people of this country and for this project. I very much enjoyed having my picture taken with the young people just before we came out, and I got to shake hands with all of them. And they took about 10 years off my life, so I feel pretty spry standing up here. *[Laughter]* I want to thank whoever organized this for putting the delegates from my home State of Arkansas up here close where I can keep an eye on them during my speech. *[Laughter]* And they were all pretty well-behaved when I walked out. I was glad to see that. Thank you very much, ladies and gentlemen.

I want to recognize two veterans of the VFW, Jimmy Gates of Alabama, who has given more than 50 years of service to this organization, and your past national commander, Bob Merrill of California. People like Bob Merrill, who piloted biplanes in World War I and devoted their lives to fighting for their fellow veterans, who have helped the VFW to make a difference in the lives of so many Americans, those are the kinds of people that I think that we ought to keep in mind when we make the decisions that are being made here in Washington about what is in the interest of the veterans of the United States.

It also gives me great pleasure to tell you that just as soon as it comes across my desk, I will sign the bill that will allow the VFW

to reform its charter and expand your membership even further.

This year we mark the 50th anniversary of the end of World War II. Many of you fought in that great struggle. Meeting some of the men and women who sacrificed so much for our freedom, whether I met them on the windswept beaches of Normandy, between the crowded rows of the cemetery in England or Italy, or inside the tunnels of the rock of Corregidor in the Philippines, meeting those people has been one of the greatest privileges I've had as President. America owes to them and to all of you a debt that we cannot fully repay.

With their lives before them, the World War II veterans left everything, family, loved ones, home, to fight for a just cause. From the Aleutians to Okinawa, from the Mediterranean to the North Sea, they watched so many of their friends fall. We lost more than 400,000, and 700,000 more were wounded. But still, our veterans never faltered. They gave everything so that future generations of Americans might be free. And we are all profoundly grateful.

But to honor their deeds and those of all the veterans who fought for freedom in World War I, Korea, Vietnam, the Persian Gulf, and all around the world in between, gratitude and ceremonies are not enough. We must protect the benefits you have earned, address fully the dangers imposed by modern warfare, and preserve what you fought for: the American dream at home and our leadership around the world.

I've said a lot in other places about preserving the American dream at home in this new global economy, and I won't talk a lot about it today, except just to say that it is going to be a constant struggle for us to make sure that in the next century every American has the chance to get a good education, to have a good job, to do better than their parents, to pass along the values of opportunity to their children. And I'll be saying more about that in other places. Today I want to talk a little about the tradition of America's leadership because that tradition is under siege.

If the new isolationists in our Nation have their way, America would abandon policies backed by Republicans and Democrats that have